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COMMITTEE ON THE RIGHTS OF THE CHILD

Ninth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Canada

1. The Committee considered the initial report of Canada (CRC/C/11/Add.3) at its 214, 215, 216 and 217 meetings (CRC/C/SR.214 to 217), held on 24 and 26 May 1995, and adopted * the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for its comprehensive report, which follows the Committees's guidelines, and for engaging, through a high-ranking delegation, in a constructive and frank dialogue with the Committee. The Committee welcomes the written information provided by the delegation of Canada in reply to the questions included in the list of issues (CRC/C.9/WP.1) which were communicated to it before the session, as well as the additional information provided during the course of the discussion, which enabled the Committee to better assess the situation of the rights of the child in Canada. The Committee further welcomes the additional written information submitted by the State party following the dialogue held with the Committee.

* At the 233rd meeting, held on 9 June 1995.

B Positive factors

3. The Committee appreciates the State party's firm commitment to adopting further measures for the implementation of the rights of the child as recognized in the Convention. The Committee considers especially noteworthy the fact that Canada played a leading role in the drafting process of the Convention on the Rights of the Child and in convening the 1990 World Summit for Children.

4. The Committee notes with satisfaction the general strengthening of the protection of human rights, particularly children's rights, through the Canadian Charter of Rights and Freedoms and through the adoption of legislative measures in the field of children's rights. The Committee also welcomes the establishment of the National Council for Crime Prevention which specifically purports to better implement the Convention provisions in the area of juvenile justice.

5. The Committee further welcomes the establishment of the Children's Bureau following the World Summit for Children and its role in ensuring that the Convention is taken into account in government policies, as well as in enabling consultations between the authorities and the private and voluntary sectors. The Committee notes with satisfaction the numerous activities undertaken to disseminate information relating to the Convention.

6. The Committee welcomes the commitment expressed by the Delegation to adopt measures to face increasing poverty and reduce existing disparities, in spite of difficulties arising from the present economic recession. The Committee notes in this regard the establishment of the Family Support Enforcement Fund intended to help provincial and territorial governments in the field of promotion and protection of children's rights.

7. The Committee welcomes specific action taken by schools and local community services to identify children's disabilities at an early stage.

8. The Committee also takes note of the efforts made by Canada in participating in international projects in co-operation with UNICEF and other governmental or international non-governmental organizations.

C Principal subjects of concern

9. The Committee, while taking note of the statement, reflected in the report of the State party, that the federal nature of Canada is a complicating factor in the implementation of the Convention, and that the exact division of responsibilities between federal, provincial and territorial governments over matters affecting children may involve an element of uncertainty, stresses that Canada is bound to observe fully the obligations assumed by ratifying the Convention. The Committee is concerned that sufficient attention has not been paid to the establishment of a permanent monitoring mechanism that will enable an effective system of implementation of the Convention in all parts of the country. Disparities between provincial or territorial legislation and practices which affect the implementation of the Convention are a matter of concern to the Committee. It seems, for instance, that the definition of the legal status of the children born out of wedlock being a matter of provincial

responsibility may lead to different levels of legal protection of such children in various parts of the country.

10. The Committee notes with concern that the State party made reservations to articles 21 and 37 (c) of the Convention.

11. The Committee expresses its concern about the value of the Convention in domestic law. Certain basic provisions and principles of the Convention, particularly those relating to non-discrimination, the best interests of the child and the respect for the views of the child, have not always been adequately reflected in national legislation and policy-making.

12. The Committee is concerned by the emerging problem of child poverty, especially among vulnerable groups. It is also worried by the increasing number of children who are brought up by single parent families, or in other problematic environments. While appreciating the programmes already set up, the Committee emphasizes the need for special programmes and services to provide the necessary care, especially in terms of education, housing and nutrition, for such children.

13. The Committee recognizes the efforts made by Canada for many years in accepting a large number of refugees and immigrants. Nevertheless, the Committee regrets that the principles of non-discrimination, of the best interests of the child and of the respect for the views of the child have not always been given adequate weight by administrative bodies dealing with the situation of refugee or immigrant children. It is particularly worried by the resort by immigration officials to measures of deprivation of liberty of children for security or other related purposes and by the insufficient measures aimed at family reunification with a view to ensuring that it is dealt with in a positive, humane and expeditious manner. The Committee specifically regrets the delays in dealing with reunification of the family in cases where one or more members of the family have been considered eligible for refugee status in Canada as well as cases where refugee or immigrant children born in Canada may be separated from their parents facing a deportation order.

14. Further measures seem to be needed to effectively prevent and combat all forms of corporal punishment and ill-treatment of children in schools or in institutions where children may be placed. The Committee is also preoccupied by the existence of child abuse and violence within the family and the insufficient protection afforded by the existing legislation in that regard.

15. The Committee further notes the urgent need to ensure adequate protection of children from harmful information, and particularly from television programmes inciting or containing violence.

16. The increasing incidence of suicide among young people is an additional cause for concern.

17. While recognizing the steps already taken, the Committee notes with concern the special problems still faced by children from vulnerable and disadvantaged groups, such as aboriginal children, with regard to the

enjoyment of their fundamental rights, including access to housing and education.

D. Suggestions and recommendations

18. The Committee wishes to encourage Canada to review its reservations to the Convention and to consider the possibility of withdrawing them, and would like to be kept informed of developments on this fundamental matter.

19. The Committee encourages the State party to pursue and develop its policy aimed at disseminating information and increasing public awareness of the Convention. It recommends that a nationwide education campaign be launched, in the framework of the United Nations Decade for Human Rights Education, to sensitize the population at large - including children themselves - to the principles and provisions of the Convention, and that consideration be given to incorporating the rights of the child in the school curricula. At the same time, the State party should integrate the Convention into the training curricula for professional groups dealing with children, especially judges, lawyers, immigration officers, peace-keepers and teachers.

20. The Committee recommends that the State party strengthen the cooperation between mechanisms existing in its legal and administrative framework and enhance the coordination between federal, provincial and territorial authorities in the field of children's rights with a view to eliminating any possibility of disparity or discrimination in the implementation of the Convention and ensuring that the Convention is fully respected in all parts of its territory. The Committee also recommends that emphasis be placed on federal monitoring mechanisms - such as the Committee of Officials on Human Rights - with a view to making them more effective. The establishment of a comprehensive network for the collection of data covering all areas of the Convention and taking into account all groups of children within Canadian jurisdiction is recommended. Cooperation in the field of the rights of the child between the authorities and non-governmental organizations as well as aboriginal communities should also be further strengthened.

21. The Committee encourages the Government of Canada to ensure the full implementation of article 4 of the Convention in the light of the general principles of the Convention, in particular the best interests of the child. Available resources should be allocated to their maximum extent to ensure the implementation of economic, social and cultural rights. The Committee also emphasizes the need to take immediate steps to tackle the problem of child poverty and make every feasible effort to ensure that all families, particularly single parent families, have adequate resources and facilities.

22. The Committee also encourages the State party to use the principles and provisions of the Convention as a framework for the programme of international development assistance.

23. In view of the fact that the Convention can only be referred to before the courts as a means of interpretation of national legislation, the Committee recommends that further steps be taken to ensure the effective implementation of the Convention at the national level. In this regard, the Committee also wishes to emphasise the importance of taking action to ensure that the general

principles of the Convention, particularly those relating to non-discrimination, the best interests of the child and the respect for the views of the child as guaranteed under articles 2, 3, and 12 respectively, are reflected in domestic law. With regard to article 12 in particular, it is recommended that children be provided with the opportunity to be heard in judicial and administrative proceedings.

24. The Committee recommends that the State party pay particular attention to the implementation of article 22 of the Convention as well as of the general principles of the Convention, in particular the best interests of the child and respect for his or her views, in all matters relating to the protection of refugee and immigrant children, including in deportation proceedings. The Committee suggests that every feasible measure be taken to facilitate and speed up the reunification of the family in cases where one or more members of the family have been considered eligible for refugee status in Canada. Solutions should also be sought to avoid expulsions causing the separation of families, in the spirit of article 9 of the Convention. More generally, the Committee recommends that the Government address the situation of unaccompanied children and children having been refused refugee status and awaiting deportation in the light of the Convention's provisions. Deprivation of liberty of children, particularly unaccompanied children, for security or other purposes should only be used as a measure of last resort in accordance with article 37 (b) of the Convention.

25. The Committee suggests that the State party examine the possibility of reviewing the penal legislation allowing corporal punishment of children by parents, in schools and in institutions where children may be placed. In this regard and in the light of the provisions set out in articles 3 and 19 of the Convention, the Committee recommends that the physical punishment of children in families be prohibited. In connection with the child's right to physical integrity as recognized by the Convention, namely in its articles 19, 28 and 37, and in the light of the best interests of the child, the Committee further suggests that the State party consider the possibility of introducing new legislation and follow-up mechanisms to prevent violence within the family, and that educational campaigns be launched with a view to changing attitudes in society on the use of physical punishment in the family and fostering the acceptance of its legal prohibition.

26. The Committee recommends that the State party strengthen its efforts to ensure that children from vulnerable and disadvantaged groups, such as aboriginal children, benefit from positive measures aimed at facilitating access to education and housing. Research should be developed on the problems relating to the growing rate of infant mortality and suicide among children within aboriginal communities.

27. Finally, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report presented by Canada be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee.